

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 62 OF 2000

State of Goa
through Shri Sudeshkumar
H. Waingade, Foof Inspector,
Directorate of Food & Drugs
Administration, Government
of Goa, Campal, Panaji, Goa. ... Appellant.

versus

1. Shri Shaba Laximan Pilankar,
Omkar Traders, Shop No.36,
Bicholim Market,
Bicholim, Goa.
2. Omkar Traders,
Shop No.36,
Bicholim Market,
Bicholim, Goa.
3. Shri Vasudev Damodar
Kelekar, Shop No.36,
Municipal Market,
Bicholim - Goa. ... Respondents.

Mr. S. N. Sardessai, Public Prosecutor for the Appellant/
State.

Mr. V. P. Thali, Advocate for Respondent Nos.1 and 3.

CORAM: P. V. HARDAS, J.

DATED: 5TH JUNE, 2003.

ORAL JUDGMENT

This Appeal has been filed by the State being
aggrieved by the acquittal of the Respondents for an
offence punishable under Section 7(i) r/w 2(ia)(f) and

2(ia)(1) punishable under Section 16 of the Prevention of Food Adulteration Act, 1954, as recorded by the Judicial Magistrate, First Class, Bicholim, by Judgment dated 23rd March, 1999, in Criminal Case No.12/OA/94/A. The learned Judicial Magistrate, First Class, Bicholim, had acquitted the Accused on the ground that the evidence of P.W.1, Sudeshkumar Waigade, had not been completed within a period of two years as was mandated by the Apex Court in the case of **Rajdeo Sharma v. State of Bihar** reported in AIR 1998 SC 3281. The learned Judicial Magistrate, First Class, Bicholim, therefore, accordingly closed the prosecution evidence and acquitted the Accused. The State being aggrieved by the aforesaid Judgment has filed the present Appeal in this Court. By a separate Order, the delay in filing the Appeal has been condoned and thereafter, with the consent of the learned Counsel for the parties, the Appeal is heard on merits.

2. Mr. S. N. Sardessai, learned Public Prosecutor appearing on behalf of the Appellant/State has invited my attention to a Judgment of the Apex Court in the case of **P. Ramachandra Rao v. State of Karnataka** reported in (2002) 4 SCC 578. According to the learned Public Prosecutor appearing on behalf of the Appellant/State, the Apex Court has held that the directions issued earlier in **Rajdeo Sharma v. State of**

Bihar(supra) is no longer good law. Therefore, according to the learned Public Prosecutor appearing on behalf of the Appellant/State the acquittal is based principally on the guidelines of the Apex Court Judgment in the case of **Rajdeo Sharma v. State of Bihar**(supra).

3. This is a case where the Accused is being prosecuted for an offence under the Prevention of Food Adulteration Act, 1954. The learned Judicial Magistrate, First Class, Bicholim, had closed the prosecution evidence and the evidence of P.W.1, Sudeshkumar Waingade, remained incomplete. The Apex Court in the case of **P. Ramachandra Rao v. State of Karnataka**(supra) has declared that the directions issued in the case of **Rajdeo Sharma v. State of Bihar**(supra) are no longer good law. In view of this, the acquittal passed by the learned Judicial Magistrate, First Class, Bicholim, is wholly unsustainable. It is true that the prosecution is of the year 1994 and nearly 8 years have passed. The interest of justice would be the subserved direction if is issued to the learned Judicial Magistrate, First Class, Bicholim, to complete the trial within a reasonable period.

4. Accordingly, Criminal Appeal is allowed. The acquittal of the Respondents for the offence for which they were charged is hereby quashed and set aside and

the matter is remanded back to the learned Trial Court for recording the evidence of the witnesses whose evidence remained incomplete and for recording the evidence of the other prosecution witnesses. The learned Judicial Magistrate, First Class, Bicholim, is however, directed to dispose of the case expeditiously and not later than 6 months from the date of receipt of the writ of this Court. It is expected that the prosecution and the Accused will co-operate with the learned Judicial Magistrate, First Class, Bicholim, in disposing of the matter expeditiously.

P. V. HARDAS, J.

RD.